

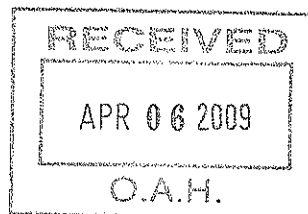
1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Escrow Agent License of:

No. 09F-BD060-BNK

3 **TITLE SECURITY AGENCY OF ARIZONA**
4 **AND THOMAS SULLIVAN, JR.,**
5 **PRESIDENT**
6390 E. Tanque Verde
Tucson, AZ 85732

NOTICE OF HEARING TO REVOKE



Petitioners.

8 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137,
9 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of
10 Administrative Hearings, an independent agency, and is scheduled for May 12 and 13, 2009, at
11 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
12 Arizona, (602) 542-9826 (the "Hearing").

13 The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order
14 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
15 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
16 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
17 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
18 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-817; and (4) an order or any
19 other remedy necessary or proper for the enforcement of statutes and rules regulating escrow agents
20 pursuant to A.R.S. §§ 6-123 and 6-131.

21 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
22 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
23 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to
24 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
25 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
26 of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed

1 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
2 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
3 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
4 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
5 Judge is specifically prohibited from entering.

6 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
7 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
8 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
9 Administrative Hearings.

10 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
11 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
12 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
13 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
14 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
15 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

16 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
17 made by a court reporter or by electronic means. Any party that requests a transcript of the
18 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

19 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
20 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

21 **NOTICE OF APPLICABLE RULES**

22 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
23 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
24 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
25 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
26 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through

1 R2-19-122. A copy of these rules is enclosed.

2 Pursuant to A.A.C. R20-4-1209, Petitioners shall file a written answer **within twenty (20)**
3 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioners' position
4 or defense and shall specifically admit or deny each of the assertions contained in this Notice of
5 Hearing. If the answering Petitioners are without or are unable to reasonably obtain knowledge or
6 information sufficient to form a belief as to the truth of an assertion, Petitioners shall so state, which
7 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioners
8 intend to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioners
9 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised
10 in the answer is deemed waived.

11 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioners will be**
12 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
13 true and admitted and the Superintendent may take whatever action is appropriate, including
14 suspension, revocation, denial of Petitioners' license or affirming an order to Cease and Desist and
15 imposition of a civil penalty or restitution to any injured party.

16 Petitioners' answer shall be mailed or delivered to the Arizona Department of Financial
17 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
18 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
19 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
20 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

21 **Persons with disabilities may request reasonable accommodations such as interpreters,**
22 **alternative format or assistance with physical accessibility.** Requests for accommodations must
23 be made as early as possible to allow time to arrange the accommodations. If accommodations are
24 required, call the Office of Administrative Hearings at (602) 542-9826.

25 **FACTS**

26 1. Petitioner Title Security Agency of Arizona ("TSA") is an Arizona corporation

1 authorized to transact business in Arizona as an escrow agent, license number EA-0001723, within
2 the meaning of A.R.S. §§ 6-801, *et seq.* The nature of Petitioner's business is that of engaging in or
3 carrying on the escrow business or acting in the capacity of an escrow agent within the meaning of
4 A.R.S. § 6-801(6).

5 2. Petitioner Thomas Sullivan, Jr. ("Mr. Sullivan") is the President of TSA. Mr. Sullivan is
6 authorized to transact business in Arizona as an escrow agent, within the meaning of A.R.S. §§ 6-
7 801, *et seq.*

8 3. Beginning on November 5, 2007 through June 4, 2008, the Department conducted an
9 examination of the escrow agent business of TSA and Mr. Sullivan and found that Petitioners:

10 a. Failed to maintain an adequate internal control structure, as evidenced by failing to
11 ensure that persons employed by or associated with Petitioners' business did not
12 make significant errors or perpetuate significant irregularities or fraud without timely
13 detection; specifically:

14 i. Lisa Gorney ("Ms. Gorney") was employed as an escrow officer from on or
15 about November 1, 2005 to April 6, 2007 by Premier Title Group ("Premier"),
16 a division of and registered trade name of TSA. Ms. Gorney was directly
17 involved in a defalcation involving a substantial number of escrow files while
18 employed in her capacity as an escrow officer at Premier; specifically:

19 1. An investigation and audit of Ms. Gorney's escrow files by Premier
20 revealed that Ms. Gorney's diversion and misappropriation of escrow
21 monies totaled at least nine hundred ninety five thousand nine hundred
22 fifty two dollars and eighty three cents (\$995,952.83);

23 2. As a result of Premier's investigation and audit, on March 18, 2008, the
24 Superintendent filed a Notice of Hearing and Intent to Remove and
25 Prohibit From Further Participation in Any Manner in the Conduct of the
26 Affairs of a Financial Institution or Enterprise ("Notice of Hearing to

1 Remove and Prohibit”), *In the Matter of the Removal and Prohibition of*
2 *Lisa Gorney*, No. 08F-BD045-BNK, pursuant to A.R.S. § 6-161, to
3 determine whether grounds exist to remove or prohibit Ms. Gorney from
4 further participation in any manner in the conduct of the affairs of a
5 financial institution or enterprise;

6 3. On June 2, 2008, following an administrative hearing and review of the
7 record, including the Administrative Law Judge’s Recommended
8 Decision, the Superintendent entered a Final Decision and Order that Ms.
9 Gorney be removed and prohibited from further participation in any
10 manner as a director, officer, employee, agent or other person in the
11 conduct of the affairs of any financial institution or enterprise in the State
12 of Arizona pursuant to A.R.S. § 6-161, effective immediately, and to
13 remain effective and enforceable until such time as any provision of the
14 Order is modified, terminated, suspended, or set aside by the
15 Superintendent or a court of competent jurisdiction;

16 4. On February 14, 2008, a Grand Jury Indictment was issued against Ms.
17 Gorney in *State of Arizona v. Lisa Gorney*, Maricopa County Superior
18 Court No. CR2008-005748-001DT, charging her with one count each of
19 Theft, a Class 2 Felony; Fraudulent Schemes and Artifices, a Class 2
20 Felony; Money Laundering, a Class 3 Felony, and Illegally Conducting an
21 Enterprise, a Class 3 Felony;

22 5. On September 9, 2008, the Court accepted a Plea Agreement, wherein Ms.
23 Gorney pled guilty to Count 1 (amended): Theft, a Class 4 Felony, and
24 Count 2 (amended): Facilitation to Commit Fraudulent Schemes and
25 Artifices, a Class 6 Undesignated Felony; and

26 6. On October 16, 2008, the Court entered Judgment against Ms. Gorney,

1 finding her guilty of Count 1 (amended): Theft, a Class 4 Felony, and
2 Count 2 (amended): Facilitation to Commit Fraudulent Schemes and
3 Artifices, a Class 6 Undesignated Felony. Regarding Count 1, the Court
4 sentenced Ms. Gorney to a term of 2.5 years imprisonment beginning on
5 October 16, 2008. Regarding Count 2, the Court sentenced Ms. Gorney to
6 a term of probation for three (3) years, to include, as a condition of the
7 probation, restitution in the amount of one million thirty two thousand
8 nine hundred four dollars and fifty two cents (\$1,032,904.52) payable at
9 one hundred dollars (\$100.00) per month to Title Security Agency of
10 Arizona. The Court further ordered that said restitution be paid jointly and
11 severally with defendant Eduardo Nicholson in *State of Arizona v.*
12 *Eduardo Nicholson*, Maricopa County Superior Court No. Case No.
13 CR2008-005748-002DT;

14 ii. Wendy Hahn ("Ms. Hahn") was employed as a branch manager at Premier from
15 approximately June 5, 2006 to March 5, 2007. Ms. Hahn was directly involved
16 in a defalcation involving approximately ten (10) escrow files while employed
17 in her capacity as a branch manager at Premier; specifically:

- 18 1. An investigation and audit of Ms. Hahn's escrow files by Premier revealed
19 that Ms. Hahn's diversion and misappropriation of escrow monies totaled
20 at least one hundred forty five thousand five hundred twenty five dollars
21 and twenty seven cents (\$145,525.27);
- 22 2. As a result of Premier's investigation and audit, on February 21, 2008, the
23 Superintendent filed a Notice of Hearing to Remove and Prohibit, *In the*
24 *Matter of the Removal and Prohibition of Wendy Hahn*, No. 08F-BD041-
25 BNK, pursuant to A.R.S. § 6-161, to determine whether grounds exist to
26 remove or prohibit Ms. Hahn from further participation in any manner in

1 the conduct of the affairs of a financial institution or enterprise; and

- 2 3. On March 29, 2008, Ms. Hahn (now known as Wendy Kauffman)
3 consented to the entry of a Consent Order, which was entered by the
4 Superintendent on April 4, 2008, ordering that Ms. Hahn be removed and
5 prohibited from further participation in any manner as a director, officer,
6 employee, agent or other person in the conduct of the affairs of any
7 financial institution or enterprise in the State of Arizona pursuant to
8 A.R.S. § 6-161, effective immediately and to remain effective and
9 enforceable until such time as any provision of the Order is modified,
10 terminated, suspended, or set aside;

- 11 iii. Cindy Peterson ("Ms. Peterson") was employed as an escrow officer and
12 branch manager at Premier's Arrowhead branch from approximately
13 November 1, 2005 to July 18, 2007. Ms. Peterson was directly involved in a
14 defalcation involving numerous escrow files while employed in her capacity as
15 an escrow officer and branch manager at Premier; specifically:

- 16 1. An investigation and audit of Ms. Peterson's escrow files by Magnus Title
17 Agency ("Magnus Title"), another division of TSA, revealed that Ms.
18 Peterson's diversion and misappropriation of escrow monies totaled at
19 least fourteen thousand eighty dollars and nine cents (\$14,080.09);
20 2. As a result of Magnus Title's investigation and audit, on October 17,
21 2007, the Superintendent filed a Notice of Hearing to Remove and
22 Prohibit, *In the Matter of the Removal and Prohibition of Cindy Peterson*,
23 No. 08F-BD017-BNK, pursuant to A.R.S. § 6-161, to determine whether
24 grounds exist to remove or prohibit Ms. Peterson from further
25 participation in any manner in the conduct of the affairs of a financial
26 institution or enterprise; and

1 3. On December 23, 2008, following an administrative hearing and review of
2 the record, including the Administrative Law Judge's Recommended
3 Decision, the Superintendent entered a Final Decision and Order that Ms.
4 Peterson be removed and prohibited from further participation in any
5 manner as a director, officer, employee, agent or other person in the
6 conduct of the affairs of any financial institution or enterprise in the State
7 of Arizona pursuant to A.R.S. § 6-161, effective immediately, and to
8 remain effective and enforceable until such time as any provision of the
9 Order is modified, terminated, suspended, or set aside by the
10 Superintendent or a court of competent jurisdiction;

11 iv. Mary Lou Pidd ("Ms. Pidd") was employed as an escrow officer at TSA until
12 leaving her employment at the end of February 2006. Ms. Pidd was directly
13 involved in a defalcation involving numerous escrow files while employed in
14 her capacity as an escrow officer at TSA; specifically:

15 1. An investigation and audit of Ms. Pidd's escrow files by TSA revealed
16 that Ms. Pidd's diversion and misappropriation of escrow monies totaled
17 at least sixteen thousand one hundred seventy one dollars and twenty four
18 cents (\$16,171.24);

19 2. As a result of TSA's investigation and audit, on October 17, 2007, the
20 Superintendent filed a Notice of Hearing to Remove and Prohibit, *In the*
21 *Matter of the Removal and Prohibition of Mary Lou Pidd*, No. 08F-
22 BD017-BNK, pursuant to A.R.S. § 6-161, to determine whether grounds
23 exist to remove or prohibit Ms. Pidd from further participation in any
24 manner in the conduct of the affairs of a financial institution or enterprise;

25 3. On November 19, 2008, the Superintendent entered a Consent Order,
26 consented to by Ms. Pidd on November 12, 2007, which ordered that Ms.

Pidd be removed and prohibited from further participation in any manner as a director, officer, employee, agent or other person in the conduct of the affairs of any financial institution or enterprise in the State of Arizona pursuant to A.R.S. § 6-161, effective immediately, and to remain effective and enforceable until such time as any provision of the Order is modified, terminated, suspended, or set aside;

4. On February 6, 2007, an Information was filed against Ms. Pidd in *State of Arizona v. Mary Lou Pidd*, Pima County Superior Court No. CR207-0543, charging her with one count of Theft, a Class 6 Felony undesignated offense;

5. On February 20, 2007, the Court accepted a Plea Agreement, wherein Ms. Pidd pled guilty to one amended count of Theft, a Class 6 undesignated offense;

6. On March 20, 2007, the Court found Ms. Pidd guilty of one count of Theft, a Class 6 undesignated offense and suspended the imposition of sentence. The Court placed Ms. Pidd on supervised probation for three years, ordered her to complete six hundred hours of community service, and to participate and cooperate in any counseling as directed by the Adult Probation Department; and

7. On March 20, 2007, Uniform Conditions of Supervised Probation were also filed, noting that Ms. Pidd shall not work in the escrow title business without permission from the Adult Probation Department; and

v. Monica Lopez ("Ms. Lopez") works as an escrow officer at TSA's Casas Adobes Branch #263. As a result of its examination and investigation, the Department discovered that Ms. Lopez:

1. Failed to account properly for escrow property as required by the terms of

the escrow;

2. Failed to disburse funds in accordance with the provisions of the HUD-1 escrow settlement statement;
3. Disbursed escrow monies contrary to the provisions of the HUD-1 escrow settlement statement;
4. Failed to maintain an adequate internal control structure as prescribed by A.R.S. § 6-841;
5. Failed to follow written escrow instructions;
6. Disbursed escrow proceeds absent adequate escrow instructions;
7. Failed to obtain prior instructions and authorization for the disbursement of escrow funds to a third party who was not a party to the escrow; and
8. Ms. Lopez improperly disbursed five hundred forty five thousand, nine hundred forty four dollars and ninety cents (\$545,944.90) to F.P., a disinterested third party, contrary to the provisions of HUD-1 escrow settlement statements or written escrow instructions; specifically:

TSA'S CASAS ADOBES BRANCH, TUCSON, AZ

1. Escrow #06112866-041-ML

Open Date: 03-17-06 **Close Date:** 04-07-06

HUD-1 Contract Sales Price: \$1,300,000

Escrow Officer: Monica Lopez

Cash-out: \$150,000 to F.P.

Loan Status: Foreclosure initiated on 11-22-06

1. On April 6, 2006, Ms. Lopez signed the Certification Addendum to HUD-1 settlement statement, which states: "The HUD-1 settlement statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.";
2. The \$150,000 cash-out disbursement, directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement and was not disclosed on the Pre-Audit HUD-1 escrow settlement statement provided to the lender;
3. Ms. Lopez failed to disclose the \$150,000 cash-out disbursement directly from the seller's escrow proceeds in the Final HUD-1 escrow settlement statement;
4. By not disclosing the \$150,000 cash-out disbursement from escrow proceeds, a true, complete, and accurate disclosure of funds disbursed directly from escrow

proceeds was not provided to the lender on the Final HUD-1 escrow settlement statement;

5. Ms. Lopez failed to follow the lender's specific escrow closing instructions. The lender's specific closing instructions state, "The final HUD-1 settlement statement must be completed at settlement and must accurately reflect all receipts and disbursements indicated in these closing instructions and any amended closing instructions subsequent hereto."; and
6. Ms. Lopez completed I.R.S. Form 1099 indicating that the seller received 100% of the \$1,300,000 gross proceeds from the sale of the property. The form overstated the proceeds paid to the seller by \$150,000, which was the amount improperly disbursed to a disinterested third party, F.P., who was not a party to the escrow transaction.

2. Escrow #06115700-041-ML

Open Date: 04-13-06 **Close Date:** 06-12-06

HUD-1 Contract Sales Price: \$530,000

Escrow Officer: Monica Lopez

Cash-out: \$100,000 to F.P.

Loan Status: Foreclosure initiated on 7-20-07

1. The \$100,000 cash-out disbursement to F.P., directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement provided to the lender;
2. Ms. Lopez failed to disclose the \$100,000 cash-out disbursement directly from the seller's escrow proceeds in the Final HUD-1 escrow settlement statement;
3. By not disclosing the \$100,000 cash-out disbursement from escrow proceeds, a true, complete and accurate disclosure of funds disbursed directly from escrow proceeds was not provided to the lender on the Final HUD-1 escrow settlement statement;
4. Nothing in the escrow file indicates that the lender was notified or made aware of the intended \$100,000 disbursement directly from escrow proceeds to F.P.; and
5. F.P. was not a party to the escrow transaction.

3. Escrow #06112873-041-ML

Open Date: 03-17-06 **Close Date:** 04-27-06

HUD-1 Contract Sales Price: \$750,000

Escrow Officer: Monica Lopez

Cash-Out: \$100,000 to F.P.

Loan Status: Foreclosure initiated on 12-07-06

1. The \$100,000 cash-out disbursement, directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement provided to the lender;
2. \$209,043.14 was to be paid to the seller pursuant to the Final HUD-1 escrow settlement statement. The Final Escrow Disbursement Report shows that Ms. Lopez issued check #329668 in the amount of \$110,921.92, which is contrary to the provisions of the Final HUD-1 escrow settlement statement;
3. The Final HUD-1 escrow settlement statement does not provide for the disbursement of \$100,000 directly from escrow proceeds to F.P.;
4. Ms. Lopez failed to disclose the \$100,000 cash-out disbursement directly from the seller's escrow proceeds in the Final HUD-1 escrow settlement statement;

5. By not disclosing the \$100,000 cash-out disbursement from escrow proceeds, a true, complete, and accurate disclosure of funds disbursed directly from escrow proceeds was not provided to the lender on the Final HUD-1 escrow settlement statement; and
6. F.P. was not a party to the escrow transaction.

4. Escrow #06110423

Open Date: 02-16-06 **Close Date:** 04-25-06

HUD-1 Contract Sales Price: \$410,000

Escrow Officer: Monica Lopez

Seller's Concession to Buyer: \$102,263.23

1. On April 18, 2006, Ms. Lopez signed the Certification Addendum to HUD-1 settlement statement, which states: "The HUD-1 settlement statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.";
2. \$161,275.62 was to be paid to the seller pursuant to the HUD-1 escrow settlement statement. The Escrow Ledger Listing shows that Ms. Lopez issued check #328265 to the seller in the amount of \$58,485.95, which is contrary to the provisions of the HUD-1 escrow settlement statement;
3. The \$102,263.23 resultant reduction in the buyer's contract sales price was not reflected in the Final HUD-1 escrow settlement statement provided to the lender;
4. Ms. Lopez issued a mortgage loan payoff check for \$349.99 less than the stated payoff amount;
5. The Authorization for Proceeds Distribution form was not disclosed to or made available to the lender prior to the lender's disbursement of loan proceeds;
6. The disbursement, transfer, payment, or other offset credit of the \$102,263.23 from the seller's escrow funds to pay the buyer's closing costs was not provided for in the HUD-1 escrow settlement statement or in the lender's closing instructions;
7. Ms. Lopez failed to disclose the \$102,263.23 offset credit from the seller's escrow proceeds in the Final HUD-1 escrow settlement statement;
8. By not disclosing the \$102,263.23 offset credit from seller to buyer and by modifying the distribution of escrow proceeds, a true, complete, and accurate disclosure of funds disbursed directly from escrow proceeds was not provided to the lender on the Final HUD-1 escrow settlement statement;
9. Ms. Lopez's disbursement, transfer, payment, or other offset credit of the \$102,263.23 directly from the escrow proceeds due to the seller to pay the buyer's closing costs is not documented or accounted for on the Escrow Ledger Listing, in the Final Disbursement Report, or in any other manner in Ms. Lopez's escrow documentation file; and
10. Ms. Lopez failed to follow the lender's Specific Written Closing Instructions and disbursed escrow funds contrary to the lender's closing instructions.

5. Escrow #06112857-041-ML

Open Date: 03-17-06 **Close Date:** 05-24-06

Escrow Amount: \$550,000

Escrow Officer: Monica Lopez

Cash-Out: \$48,944.90 to F.P.

Loan Status: Foreclosure initiated on 11-27-06

1. The \$48,944.90 cash-out disbursement, directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement;
2. Ms. Lopez failed to disclose the \$48,944.90 cash-out disbursement directly from the seller's escrow proceeds in the Final HUD-1 escrow settlement statement;
3. By not disclosing the \$48,944.90 cash-out disbursement from escrow proceeds, a true, complete, and accurate disclosure of funds disbursed directly from escrow proceeds was not provided to the lender on the Final HUD-1 escrow settlement statement;
4. The disbursement to F.P. does not appear on the Final HUD-1 escrow settlement statement;
5. The \$48,944.90 cash-out disbursement by Ms. Lopez was not indicated and approved of in the lender's closing instructions;
6. Ms. Lopez failed to obtain written approval for the \$48,944.90 disbursement of escrow funds directly from escrow proceeds to F.P., who was not a party to the escrow transaction; and
7. No instructions by the seller or approval by the lender were documented in the escrow file.

6. Escrow #06112875-041-ML

Open Date: 04-24-06 **Close Date:** 05-17-06
HUD-1 Contract Sales Price: \$631,000
Escrow Officer: Monica Lopez
Cash-Out: \$82,000 to F.P.
Loan Status: Foreclosure initiated on 11-13-06

1. The \$82,000 cash-out disbursement, directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement;
2. The \$82,000 cash-out disbursement to F.P., directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement provided to the lender;
3. By not disclosing the \$82,000 cash-out disbursement from escrow proceeds, a true, complete and accurate disclosure of funds disbursed directly from escrow proceeds was not provided to the lender on the Final HUD-1 escrow settlement statement;
4. Ms. Lopez failed to obtain written approval for the \$82,000 disbursement of escrow funds directly from escrow proceeds to F.P., who was not a party to the escrow transaction;
5. A Disposition of Proceeds form and an Irrevocable Assignment of Funds form were signed by the seller instructing Ms. Lopez to disburse \$82,000 directly from escrow proceeds to F.P. These forms were not signed by, provided to, or acknowledged by the lender; and
6. The lender's instructions did not provide for an \$82,000 disbursement of escrow funds directly from escrow proceeds to F.P.

7. Escrow #06118349-041-ML

Open Date: 04-19-06 **Close Date:** 06-09-06
HUD-1 Contract Sales Price: \$555,000
Escrow Officer: Monica Lopez
Cash-Out: \$65,000 to F.P.
Loan Status: Foreclosure initiated on 12-12-06

1. The \$65,000 cash-out disbursement, directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement;
2. The \$65,000 cash-out disbursement, directly from escrow proceeds, was not disclosed on the Final HUD-1 escrow settlement statement and was not disclosed on the Pre-Audit HUD-1 escrow settlement statement provided to the lender;
3. By not disclosing the \$65,000 cash-out disbursement from escrow proceeds, a true, complete and accurate disclosure of funds disbursed directly from escrow proceeds was not provided to the lender on the Final HUD-1 escrow settlement statement;
4. A Disposition of Proceeds form and an Irrevocable Assignment of Funds form were signed by the seller instructing Ms. Lopez to disburse \$65,000 directly from escrow proceeds to F.P. These forms were not signed by, provided to, or acknowledged by the lender; and
5. The lender's instructions did not provide for a \$65,000 disbursement of escrow funds directly from escrow proceeds to F.P.; and

9. On October 16, 2008, the Superintendent issued a Notice of Hearing to Remove and Prohibit, *In the Matter of the Removal and Prohibition of Monica Lopez*, No. 09F-BD036-BNK, pursuant to A.R.S. § 6-161, to determine whether grounds exist to remove or prohibit Ms. Lopez from further participation in any manner in the conduct of the affairs of a financial institution or enterprise. An administrative hearing in this matter is currently scheduled for February 18, 19 and 20, 2009;

b. Failed to maintain an adequate internal control structure as prescribed by A.R.S. § 6-841, as evidenced by failing to implement and maintain adequate internal routine, security and control procedures at eight (8) TSA branches; specifically:

i. The Yuma Branch #100 failed to implement and maintain an internal control structure; specifically:

1. Failed to initiate follow-up procedures on outstanding undisbursed escrow balances. No calendar, computer notification system or other tickler system is used to provide timely follow-up on accounts on outstanding undisbursed escrow account balances;
2. No policy and procedure has been implemented to report suspicious transactions or requests to perform or participate in unusual and/or

1 suspicious transactions; and

2 3. The branch staff is unaware of Suspicious Activity Reports (“SARs”) or
3 the statutory requirement for the completion and submission of the reports
4 to the Arizona Attorney General’s Office or the Department of Financial
5 Institutions, pursuant to A.R.S. § 6-1241;

6 ii. The Oro Valley Branch #310 failed to implement and maintain an internal
7 control structure; specifically:

8 1. No inventory procedures are performed by the branch relating to blank
9 check stock supplies;

10 iii. The 51st Ave. & Union Hills Branch #707 failed to implement and maintain an
11 internal control structure; specifically:

12 1. Each employee’s personal computer access passwords was not considered
13 confidential;

14 2. Each employee’s personal computer access password was known by other
15 employees;

16 3. The branch staff was unaware of any policy and procedure to report
17 suspicious transactions or requests to perform or participate in unusual
18 and/or suspicious transactions. The branch staff is unaware of SARs or
19 the statutory requirement for the completion and submission of the reports
20 to the Arizona Attorney General’s Office or the Department of Financial
21 Institutions, pursuant to A.R.S. § 6-1241; and

22 4. The branch staff was unaware if any SARs have been completed and
23 submitted to the Arizona Attorney General’s Office or to the
24 Superintendent of the Department of Financial Institutions;

25 iv. The Lakeshore Rural & Baseline Branch #713 failed to implement and maintain
26 an internal control structure; specifically:

1. The branch staff was unaware of any policy and procedure to report suspicious transactions or requests to perform or participate in unusual and/or suspicious transactions. The branch management was unaware of SARs or the statutory requirement for the completion and submission of the reports to the Arizona Attorney General's Office or the Department of Financial Institutions, pursuant to A.R.S. § 6-1241; and
 2. The branch staff was unaware of any SARs that have been completed and submitted to the Arizona Attorney General's Office or to the Superintendent of the Department of Financial Institutions;
- v. The Premier Title Group, Central Three Branch #718 failed to implement and maintain an internal control structure; specifically:
1. Prior to May 2007, escrow officers could erase and change receipt data entries only on the same day as the deposit of escrow funds and after checks were issued. In May 2007, the escrow software system was modified so that no one could change the original entries. Since that date, only the IT department in the Tucson Home Office has been able to access the original entry data and make correcting entries;
 2. The Branch Manager can access the computer system offsite using her personal computer;
 3. Escrow losses were experienced through the use of dummy receipts used by escrow officers prior to May 2007. Since May 2007, no dummy receipts have appeared; and
 4. Employee defalcations have occurred during the past four years. Internal and external audit procedures and investigations have been initiated for identification and prosecution of the perpetrators;
- vi. The Premier Title Group, Central Four Branch #719 failed to implement and

1 maintain an internal control structure; specifically:

- 2 1. Unused blank escrow disbursement check stock with watermark only is
3 maintained overnight and during business hours in an unlocked cabinet;
- 4 2. No blank check stock inventory procedures have been performed by
5 branch staff;
- 6 3. The Branch Manager has access to the escrow computer system from
7 home and is allowed to work on escrows but not print any documents at
8 home. The Escrow Manager also has access to the escrow software
9 system from outside the office;
- 10 4. Internal and external audit procedures and investigations continued during
11 the examination;
- 12 5. A monthly list of escrow accounts with outstanding account balances is
13 submitted to the branch by the central accounting department. No
14 requirements are impressed in the policy and procedures manual or other
15 instructions to ensure timely follow-up procedures are performed on the
16 outstanding balances or requiring the branch to issue a timely response
17 detailing the follow-up and resolution of the outstanding balances to the
18 Home Office Accounting Department. No follow-up report is submitted
19 to the Home Office Accounting Department or escrow administration
20 supervisor;
- 21 6. The branch manager was unaware of any requirements to report suspicious
22 transactions or requests to perform or participate in unusual and/or
23 suspicious transactions;
- 24 7. The branch manager is unaware of any SARs that have been completed
25 and submitted to the Arizona Attorney General's Office or to the
26 Superintendent of the Department of Financial Institutions; and

- 1 8. Internal and external audit procedures and investigations continued during
2 the examination;
- 3 vii. The Arrowhead Branch #722 failed to implement and maintain an internal
4 control structure, specifically:
 - 5 1. The escrow files and records of branches #780 and #781 were transferred
6 to and consolidated with this branch during the review period;
 - 7 2. Losses due to employee defalcation, misdirection and other escrow
8 transaction errors have occurred in escrow transactions performed by prior
9 escrow officers of this branch during the examination review period.
10 Internal and external audit procedures and investigations conducted by the
11 Petitioners, the Title Insurance Underwriter, the Department of Financial
12 Institutions and the Arizona Attorney General's Office, continued during
13 the examination. Investigation, administrative actions, prosecution and
14 sentencing of the perpetrators and participants also continued during and
15 after the on-site examination procedures;
 - 16 3. No inventory control procedures are performed by the branch. No
17 inventory log is maintained. No reports are submitted to the Home Office
18 Security Officer documenting routine inspection and inventory procedures
19 performed in the maintenance of the unused check stock supplies held at
20 the branch;
 - 21 4. A monthly list of escrow accounts with outstanding account balances is
22 submitted to the branch by the central accounting department. No
23 requirements are impressed in the policy and procedures manual or other
24 instructions to ensure timely follow-up procedures for checks are
25 performed on the outstanding balances or requiring the branch to issue a
26 timely response detailing the follow-up and resolution of the outstanding

1 balances to the Home Office Accounting Department. No follow-up
2 report is submitted to the Home Office Accounting Department or escrow
3 administration supervisor;

4 5. The branch manager was unaware of any requirements to report suspicious
5 transactions or requests to perform or participate in unusual and/or
6 suspicious transactions; and

7 6. The branch manager is unaware of any SARs that have been completed
8 and submitted to the Arizona Attorney General's Office or to the
9 Superintendent of the Department of Financial Institutions;

10 viii. The Mesa East Branch #735 failed to implement and maintain an internal
11 control structure; specifically:

12 1. A monthly list of escrow accounts with outstanding account balances is
13 submitted to the branch by the central accounting department. No
14 requirements are impressed in the policy and procedures manual or other
15 instructions to ensure timely follow-up procedures are performed on the
16 outstanding balances or requiring the branch to issue a timely written
17 response detailing the follow-up and resolution of the outstanding
18 balances. The Home Office Accounting Department provides a list of
19 account balances due follow-up to the Escrow Supervisor who then sends
20 lists of those items to the branches for follow-up. Items that reappear on a
21 subsequent list are again listed for follow-up on continuing lists until the
22 items are resolved or transferred to the Home Office Accounting
23 Department as inactive/dormant balances subject to escheatment
24 processing. No written branch response to the monthly follow-up report
25 listing is required to be submitted within a limited period of time to the
26 Escrow Supervisor or Home Office Accounting Department by the branch

1 managers. The branch maintains a separate file drawer with follow-up
2 documentation and each monthly letter and listing received from the
3 Escrow Supervisor;

4 2. The branch manager was unaware of any requirements to report suspicious
5 transactions or requests to perform or participate in unusual and/or
6 suspicious transactions; and

7 3. The branch manager is unaware of any SARs that have been completed
8 and submitted to the Arizona Attorney General's Office or to the
9 Superintendent of the Department of Financial Institutions;

10 c. Failed to maintain an adequate internal control structure as prescribed by A.R.S.
11 § 6-841, as evidenced by failing to maintain an effective computer back-up system to
12 ensure the maintenance and preservation of computer data records of escrow
13 transactions; specifically:

14 i. Magnus Title failed to maintain an adequate internal control structure and failed
15 to perform data backup procedures, as evidenced by loss of data as a result of a
16 computer crash at that location; specifically:

17 1. On July 21, 2008, the Petitioners notified the Superintendent by mail that
18 on Sunday, July 13, 2008, TSA management was informed by the
19 Petitioners' IT service provider that Magnus Title operation's computer
20 system crashed and computer data from August 16, 2006 through July 11,
21 2008, twenty-three (23) months of escrow operations data, was lost;

22 2. The Petitioners then discovered their IT service provider was not
23 conducting the regular nightly backups for the Magnus Title operation,
24 and the data, including escrow files and accounting data, will need to be
25 restored manually. The Petitioners have hard copies of the escrow trial
26 balance report data including individual escrow account balances as of

1 June 30, 2008. The Petitioners stated they have hard copies of the daily
2 escrow work including receipts, disbursements and voided checks. The
3 escrow accounting department is manually recreating the Escrow Ledgers
4 from June 30, 2008 through July 11, 2008, by using hard copies from the
5 daily posting report;

6 3. TSA stated that Pima County, Pinal County and Yuma County operations
7 have not been affected by the crash and are backed up every night;

8 4. On July 25, 2008, the Superintendent acknowledged receipt of the
9 Petitioners' July 21, 2008 letter notifying the Superintendent of the
10 computer malfunction resulting in the loss of data from the Magnus Title
11 computer system. The Superintendent stated significant concern about the
12 fact that the July 21st letter describes substantial data loss and failure to
13 back up data records on the Magnus Title computer system. A.R.S.
14 § 6-831 requires the Petitioners to keep and maintain at all times at their
15 principal place of business, complete and suitable records of all escrow
16 transactions, together with books, papers and data clearly reflecting the
17 financial condition of the business while employing a systematic internal
18 control structure. In accordance with the provisions of A.R.S.
19 §§ 6-832(B) and (C), the Superintendent requested a special report from
20 the Petitioners' CPA firm commenting on the sufficiency of the
21 Petitioners' internal control structure pertaining to the Petitioners' data
22 records of the transactions which A.A.C. R20-4-703 requires to be
23 maintained for three years following the "final settlement date of the
24 transaction.";

25 5. As requested by the Superintendent in the July 25, 2008 correspondence to
26 the Petitioners, on July 29, 2008, Chris Wm. Ludwig, CPA of Ludwig

1 Klewer & Co. PLLC provided information to the Superintendent
2 confirming that on July 16, 2008, the Executive Vice President and the
3 Controller of TSA notified the CPA firm of the computer malfunctions.
4 Mr. Ludwig stated that the firm will coordinate the preparation of a
5 "special report" by August 25, 2008, regarding the entity's internal control
6 structure as it relates to record retention and the related policies and
7 procedures. The "special report" due by August 25, 2008, has not yet
8 been received by the Superintendent; and

9 6. On September 22, 2008, the Superintendent received a letter dated
10 September 19, 2008, from the Executive Vice President, stating that the
11 letter serves as TSA's commitment to provide the Superintendent with a
12 sixty (60) day follow up report related to the loss of computer data of the
13 Petitioners' Magnus Title operation in Phoenix. Neither the August 25,
14 2008 report, nor the sixty (60) day report due September 25, 2008, have
15 been received by the Superintendent;

16 d. Failed to maintain an adequate internal control structure as prescribed by A.R.S.
17 § 6-841, as evidenced by failure to respond to internal control structure criticisms and
18 recommendations repeatedly cited in the CPA's internal control communication
19 report and reports to management issued by the CPA firms to Petitioners annually in
20 conjunction with the fiscal years ending 2005, 2006 and 2007 audited financial
21 statements, and by failing to adopt and institute adequate and effective policies and
22 procedures to ensure the integrity, safety, maintenance and preservation of computer
23 generated data; specifically:

24 i. Failed to formulate and adopt formal management processes for monitoring the
25 Petitioners' risk of acts of fraud committed by employees or management. The
26 escrow transactions subject to criticism and exhibiting apparent or suspected

1 fraudulent schemes and other suspicious activities of parties to escrow
2 transactions exhibited in the Report of Examination are excessive;

3 ii. The volume of escrow fee calculation and assessment errors encountered in the
4 examination of the Petitioners' escrow transactions is indicative of the
5 Petitioners' failure to develop and implement adequate, effective, formalized
6 accounting policies and procedures and specific policies and procedures
7 focusing on the areas within TSA where the risk of fraud is highest, to
8 strengthen Petitioners' internal control structure;

9 iii. The Petitioners' CPA accounting firms' "Internal Control Communication" and
10 "Reports to Management," issued in conjunction with the fiscal year-end
11 audited financial statements for Fiscal Years ending December 31, 2005, 2006
12 and 2007, have repeatedly cited the Petitioners' failure to or inability to
13 formulate, implement and maintain adequate and effective internal controls and
14 procedures to identify and monitor fraud risk, as illustrated;

15 iv. Failed to maintain an adequate internal control structure with regard to the CPA
16 Auditor's Internal Control Communication Report for Fiscal Year End
17 December 31, 2007; specifically:

- 18 1. On April 15, 2008, Ludwig Klewer & Co. PLLC issued an "Internal
19 Control Communication Report" to the Members and Management of
20 Title Security Agency of Arizona in conjunction with the CPA firm's
21 audit of the Petitioners' December 31, 2007, Fiscal Year-End financial
22 statements;
- 23 2. The CPA's Fiscal Year End 2007, Internal Control Communication Report
24 repeated the same criticism of deficiencies that were previously cited in
25 the "Reports to Management" issued to the Petitioners in conjunction with
26 the CPA firm's audits of the Petitioners' fiscal years ending December 31,

1 2005 and December 31, 2006, financial statements, specifically pertaining
2 to the need for the Petitioners to develop policies and procedures to
3 identify and monitor fraud risk;

4 3. In the Internal Control Communication Report for Fiscal Year End
5 December 31, 2007, the CPA firm stated: "We identified certain
6 deficiencies in internal control that we consider to be significant
7 deficiencies" and further stated: "We consider the following deficiencies
8 to be significant deficiencies in internal control.";

9 4. Petitioners failed to develop policies and procedures to identify and
10 monitor fraud risk as evidenced by failure to currently maintain formal
11 management processes for monitoring the Petitioners' risk of acts of fraud
12 committed by employees or management, failure to develop policies that
13 focus on the areas where the risk of fraud is highest, which could further
14 strengthen Petitioners' internal controls;

15 5. In the Letter to Management, dated April 15, 2008, the CPA firm stated:
16 "We recommend that the management team consider these issues and
17 formulate a specific policy regarding its monitoring of the risk of fraud. In
18 addition, we suggest that the Company assemble teams (including
19 members of management and employees from throughout the
20 organization) that will be responsible for reviewing accounting records on
21 a regular basis to assess whether there is concern about whether fraud has
22 occurred. This review should be documented and signed off by members
23 of the management team.";

24 v. Failed to maintain an adequate internal control structure with regard to the CPA
25 Auditor's Report to Management for Fiscal Year End December 31, 2006;
26 specifically:

1. On April 23, 2007, Ludwig Schacht & Klewer PLLC issued a "Report to Management" to the Board of Directors of Title Security Agency of Arizona in conjunction with the CPA firm's audit of Petitioners' December 31, 2006 Fiscal Year End financial statements;
2. The CPA's Report to Management repeated the same criticisms of deficiencies previously cited in the "Report to Management" issued to the Petitioners in conjunction with the CPA firm's audit of the Petitioners' previous December 31, 2005 Fiscal Year End financial statements specifically pertaining to the need for Petitioners to develop policies and procedures to identify and monitor fraud risk;
3. In the Report to Management for Fiscal Year End December 31, 2006, the CPA firm stated: "We became aware of several matters that are opportunities for strengthening internal controls and operating efficiency." The matters of concern to the CPA firm and cited in the CPA's Report to Management included the the need for Petitioners to develop policies and procedures to identify and monitor fraud risk. There are currently no formal management processes for monitoring the Company's risk of acts of fraud committed by employees or management. Developing policies that focus on the areas within the Company where the risk of fraud is highest could further strengthen the Company's internal controls;
4. In the Letter to Management, dated April 23, 2007, the CPA firm stated: "We recommend that the management team consider these issues and formulate a specific policy regarding its monitoring of the risk of fraud. In addition, we suggest that the Company assemble teams (including members of management and employees from throughout the organization) that will be responsible for reviewing accounting records on

1 a regular basis to assess whether there is concern about whether fraud has
2 occurred. This review should be documented and signed off by members
3 of the management team.”; and

4 5. Management’s response to the CPA’s criticism and recommendations
5 regarding the development of policies and procedures to identify and
6 monitor fraud risk was, “Management has developed an audit form and is
7 establishing policies and procedures to monitor fraud risk and audit a
8 select number of files each quarter.”;

9 vi. Failed to maintain an adequate internal control structure with regard to CPA
10 Auditor’s Report to Management for Fiscal Year End December 31, 2005;
11 specifically:

12 1. On March 22, 2006, Ludwig Schacht & Klewer PLLC issued a “Report to
13 Management” to the Board of Directors of TSA in conjunction with the
14 CPA firm’s audit of the Petitioners’ December 31, 2005, Fiscal Year End
15 financial statements. In that document, the CPA firm stated: “During our
16 audit, we became aware of several matters that are opportunities for
17 strengthening internal controls and operating efficiency.”;

18 vii. The matters of concern to the CPA firm and cited in the CPA’s Report to
19 Management included the need for Petitioners to develop policies and
20 procedures to identify and monitor fraud risk. There are currently no formal
21 management processes for monitoring the Company’s risk of acts of fraud
22 committed by employees or management. Developing policies that focus on
23 the areas within the Company where the risk of fraud is highest could further
24 strengthen the Company’s internal controls;

25 1. In the Letter to Management, dated March 22, 2006, the CPA firm stated:
26 “We recommend that the management team consider these issues and

1 formulate a specific policy regarding its monitoring of the risk of fraud. In
2 addition, we suggest that the Company assemble teams (including
3 members of management and employees from throughout the
4 organization) that will be responsible for reviewing accounting records on
5 a regular basis to assess whether there is concern about whether fraud has
6 occurred. This review should be documented and signed off by members
7 of the management team.”; and

8 2. Management’s response to the CPA’s criticism and recommendations
9 regarding the development of policies and procedures to identify and
10 monitor fraud risk was, “Management will establish a policy regarding
11 monitoring fraud risk.”;

12 e. Failed to maintain an adequate internal control structure as prescribed by A.R.S.
13 § 6-841, as evidenced by a failure to protect and provide security for escrow property;
14 specifically:

15 i. On or about October 29, 2007, a Mesa Police Department Detective provided
16 information pertaining to the discovery of documents dated September 27,
17 2007, created by Magnus Title. The documents contained the personal
18 information of escrow parties including the escrow parties’ names, birth dates,
19 drivers’ license numbers, bank loan account numbers, social security numbers,
20 home addresses, phone numbers and other personal and family information.
21 The personal information was in the possession of individuals and was captured
22 by the police department during the raid of a motel room occupied by a
23 suspected identity theft group. One suspect was arrested at the scene. The
24 documents were found with other bags of information from another local title
25 company. The documents had been improperly thrown into a garbage dumpster
26 used by the Petitioners and other companies, instead of being shredded in

- 1 accordance with Arizona law and with the destruction practice of the
2 Petitioners. The police investigation of the case continues at this time;
- 3 ii. The branch manager of the East Mesa Branch stated that the particular
4 documents created by the Petitioners should have been shredded as is the policy
5 and practice of the Petitioners. The branch manager stated that the documents
6 apparently were placed into a trash can located immediately adjacent to an
7 identical 'to-be-shredded' trash can for the shredding of sensitive documents
8 and documents containing confidential information. In the discussion of the
9 incident, the branch manager stated that the two similar trash receptacles have
10 been widely separated and clearly marked to avoid any future recurrence; and
- 11 iii. Additionally, the branch manager stated that the branch staff has also received
12 corrective directions pertaining to the destruction of confidential and sensitive
13 documents in the future;
- 14 f. Failed to use TSA's name, as licensed, on four (4) of Petitioners' fiduciary deposit
15 accounts;
- 16 g. Failed to produce escrow records for examination in a timely manner; specifically:
- 17 i. Failed to produce checking account records of TSA checking account for
18 JPMorgan Chase Bank, N.A. Trust Account, #XXXXXX9926, regarding
19 outstanding checks totaling \$1,760.00, as listed on the account reconciliation;
20 and
- 21 ii. Failed to produce two escrow files from the East Broadway Branch #410, one
22 escrow file from TSA Main Office Branch #031, and one escrow file from the
23 Casas Adobes Branch #263, as requested;
- 24 h. Failed to maintain an adequate internal control structure as prescribed by A.R.S.
25 § 6-841; specifically:
- 26 i. Failed to adequately reconcile the escrow fiduciary checking accounts;

specifically:

1. Examination of procedures used to reconcile the escrow depository bank accounts revealed the failure of Petitioners to properly perform a three-way reconciliation of each of the fiduciary bank accounts balances with the bank statement, an accurate and adequate aged escrow trial balance report listing, and an escrow general ledger;
- ii. Failed to accurately and adequately reconcile fiduciary depository accounts; specifically:
 1. Reconciliation of National Bank of Arizona Fiduciary Checking Account #XXXXXX8384 revealed a cash shortage representing outstanding overdraft/NSV Account Servicing account balances totaling \$7,318.40; and
 2. Reconciliation of JPMorgan Chase Bank, NA Fiduciary Checking Account #XXXXXX9926 revealed an unresolved, stale-dated trust cash shortage in the amount of \$10.00, which has existed since April 28, 2006;
- iii. Failed to properly label depository accounts; specifically:
 1. Forty-three (43) trust bank checking accounts totaling \$18,862,983.05 and containing Arizona escrow transactions and balances were not adequately labeled as trust, escrow or any other fiduciary label to indicate that the funds were fiduciary funds and not corporate funds of the escrow agent;
- iv. Failed to provide adequate follow-up on eight hundred fourteen (814) stale-dated escrow account balances, totaling \$1,756,235.65; specifically:
 1. Alliance Bank of Arizona checking account #XXXXXX4587 held fifty three (53) escrow account balances aged in excess of one hundred eighty (180) days, totaling \$116,877.74;
 2. Alliance Bank of Arizona checking account #XXXXXX0218 held two

1 hundred eighty two (282) escrow account balances aged in excess of one
2 hundred eighty (180) days, totaling \$324,192.49;

3 3. JPMorgan Chase Bank N.A. checking account #XXXXX7455, held eleven
4 (11) escrow account balances aged in excess of one hundred eighty (180)
5 days, totaling \$9,182.41;

6 4. Alliance Bank of Arizona checking account #XXXXXX0999 held one
7 hundred forty four (144) escrow account balances aged in excess of one
8 hundred eighty (180) days, totaling \$129,075.68;

9 5. National Bank of Arizona checking account #XXXXX8384 held four (4)
10 escrow account balances aged in excess of one hundred eighty (180) days,
11 totaling \$109,726.89;

12 6. JPMorgan Chase Bank N.A. checking account #XXXXX2132 held thirteen
13 (13) escrow account balances aged in excess of one hundred eighty (180)
14 days, totaling \$2,890.72;

15 7. Alliance Bank of Arizona checking account #XXXXXX3647 held one
16 hundred sixty nine (169) escrow account balances aged in excess of one
17 hundred eighty (180) days, totaling \$454,785.57;

18 8. National Bank of Arizona checking account #XXXXX0822 held twenty
19 four (24) escrow account balances aged in excess of one hundred eighty
20 (180) days, totaling \$68,205.83;

21 9. National Bank of Arizona checking account #XXXXX2502 held thirty eight
22 (38) escrow account balances aged in excess of one hundred eighty (180)
23 days, totaling \$42,267.37;

24 10. National Bank of Arizona checking account #XXXXX9093 held seven (7)
25 escrow account balances aged in excess of one hundred eighty (180) days,
26 totaling \$68,616.05; and

1 11. JPMorgan Chase Bank N.A. checking account #XXX7018 held sixty nine
2 (69) escrow account balances aged in excess of one hundred eighty (180)
3 days, totaling \$430,414.90;

4 v. Failed to maintain adequate escrow trial balance report data; specifically:

- 5 1. The Escrow Trial Balance Report supporting the JPMorgan Chase Bank
6 N.A. Title Security Agency of Arizona Trust Account depository checking
7 account #XXXXX9926 balance of \$17,820.60 failed to provide each
8 escrow's opening date, the escrow entity's name, description or title of the
9 escrow, the date of last transaction and the branch office of origination of
10 each escrow account balance contained in the trial balance report total;
- 11 2. The Petitioners' reconciliation documentation supporting the JPMorgan
12 Chase Bank N.A. Title Security Agency of Arizona Trust Account
13 depository checking account #XXXXX9926 balance of \$17,820.60 failed
14 to provide a detailed listing of outstanding checks totaling \$1,760.00
15 indicating the issuance date, related escrow number, the escrow name, and
16 the branch office of origination of each check contained in the listing total;
- 17 3. The Escrow Trial Balance Report supporting the National Bank of
18 Arizona Title Security Agency of Arizona Impound Account depository
19 checking account #XXXX7503 reconciled balance of \$718,439.99 failed
20 to provide the date of last transaction of each escrow account balance
21 contained in the escrow trial balance report total;
- 22 4. The Escrow Trial Balance Report supporting the JPMorgan Chase Bank
23 N.A. Title Security Agency of Arizona Trust Account depository checking
24 account #XXXX7455 failed to provide the date of last transaction of ten
25 (10) escrow savings account balances totaling \$1,233,291.61 detailed in
26 the trial balance report total;

5. The Escrow Trial Balance Report supporting the Alliance Bank of Arizona Account depository checking account #XXXXXX0999 indicating an Escrow Trial Balance total of \$1,135,874.45 did not reconcile to the Petitioners' Trust General Ledger that indicates a total trust liability of \$1,135,829.45; and
 6. The Petitioners failed to post escrow #2241230 savings account #XXXX2314, opened 9-19-07 at the National Bank of Arizona Title Security Agency of Arizona LLC, and having a balance of \$50,000.00, to the Escrow Trial Balance Report as of 9-30-07, the bank reconciliation examination date;
- vi. Failed to provide adequate follow-up on one thousand eight hundred eighty six (1,886) stale-dated outstanding checks totaling \$559,356.08; specifically:
1. Alliance Bank of Arizona checking account #XXXXXX4587 held one hundred forty two (142) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$26,569.77;
 2. Alliance Bank of Arizona checking account #XXXXXX0218 held twenty eight (28) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$7,846.12;
 3. JPMorgan Chase Bank N.A. checking account #XXXX7455, held six hundred ninety four (694) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$217,792.86;
 4. M&I Marshall & Isley Bank checking account #XXXXXX7018, held fourteen (14) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$6,189.73;
 5. Alliance Bank of Arizona checking account #XXXXXX0999 held four hundred thirty three (433) outstanding checks aged in excess of one

- hundred eighty (180) days, totaling \$112,160.23;
6. National Bank of Arizona checking account #XXXX8384 held ten (10) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$7,876.62;
 7. JPMorgan Chase Bank N.A. checking account #XXXX2132 held four (4) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$4,824.05;
 8. Alliance Bank of Arizona checking account #XXXXXX3647 held one hundred eighty four (184) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$63,654.08;
 9. National Bank of Arizona checking account #XXXX0822 held forty four (44) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$11,185.08;
 10. National Bank of Arizona checking account #XXXX2502 held one hundred fourteen (114) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$45,543.72;
 11. National Bank of Arizona checking account #XXXX9093 held three (3) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$844.36;
 12. JPMorgan Chase Bank N.A. checking account #XXX7018 held two hundred eighteen (218) outstanding checks aged in excess of one hundred eighty (180) days, totaling \$53,905.36; and
 13. National Bank of Arizona checking account #XXXX7503 held one (1) outstanding check aged in excess of one hundred eighty (180) days, totaling \$964.10;
- vii. Failed to maintain adequate accounting policies and procedures and failed to

1 comply with accounting procedures; specifically:

2 1. The Accounting Manual being used by the Petitioners' Accounting
3 Department was last revised in 2006. Certain sections of the manual are
4 inadequate or are not being followed by the Petitioners' staff;

5 i. Failed, within three days after receipt of escrow monies, to provide and document the
6 disclosure to the depositing escrow parties, a complete and adequate notice of their
7 right to earn interest on all monies deposited in escrows; specifically:

8 i. Failed to provide adequate notice of right to earn interest on deposits for at least
9 one hundred eleven (111) escrow files at ten (10) branch locations examined;

10 ii. Receipt forms used by some of the Petitioners' branches, and Magnus Title
11 escrow branch offices, are incomplete and fail to disclose the \$25.00 fee
12 charged by Petitioners for opening a savings or investment account for the
13 benefit of the depositing party. The disclosure is required to be provided to the
14 depositing parties within three (3) days of the escrow deposit; and

15 iii. Magnus Title utilizes an Employment Agreement and General Provisions form
16 to document the escrow terms and conditions of each escrow and to provide
17 various statutorily required disclosures to escrow parties, including the escrow
18 parties' right to earn interest on deposited escrow monies; specifically:

19 1. The fee charged by the escrow agent to set up an interest bearing account
20 is stated in the Magnus Title form to be \$35.00. The fee that is filed with
21 and approved by the Superintendent of Financial Institutions is \$25.00.
22 Petitioners must charge only those fees that are filed with and approved by
23 the Superintendent, or charge and document only exact third-party pass
24 through costs; and

25 2. Magnus Title's Employment Agreement and General Provisions
26 documents containing the disclosure of the right to earn interest on

deposited funds were not signed and provided to the escrow parties within three business days of the receipt of escrow monies as required by law;

j. Failed to disclose to the buyers and sellers of residential dwellings that the title insurer may offer a closing protection letter that provides protection for loss of escrow monies due to fraud or dishonesty of the escrow agent; specifically:

i. The receipt form used by Petitioners incorrectly contains the language disclosing that the buyer and seller of a residential dwelling may receive a closing protection letter from the title insurer, rather than correctly stating that the title insurer may offer a closing protection letter;

k. Failed to provide a complete and accurate disclosure to each buyer and seller of a residential dwelling as defined in A.R.S. § 6-841.02 that monies deposited in an escrow account are not insured against loss from fraud or theft by this state or the United States government; specifically:

i. Failed to provide adequate notice of uninsured monies in at least ninety eight (98) escrow files in nine (9) of the branches examined;

ii. Receipt forms used by Magnus Title escrow branches do not provide the statutorily required disclosure to depositing escrow parties. The statutorily required disclosure is required to be given to the depositing parties within three (3) days of the deposit; and

iii. Magnus Title's Employment Agreement and General Provisions documents, and the statutorily required disclosures contained within those documents, provide the required disclosure, but were not signed and provided to the escrow parties within three (3) business days of the receipt of escrow monies as required by law;

l. Disbursed funds that were not available for withdrawal from the escrow account; specifically:

- 1 i. Petitioners received and deposited a total of sixteen (16) corporate checks,
2 personal checks and official bank checks, totaling \$769,044.89, at a total of
3 seven (7) branch locations, and subsequently disbursed funds from those
4 deposited items that were not available for withdrawal;
- 5 ii. All deposits are not being processed and deposited in a fiduciary depository
6 bank account in a timely manner; and
- 7 iii. Receipts of escrow deposits on eight (8) escrow accounts were dated 9-27-07 or
8 9-28-07. The escrow funds were disbursed between 9-28-07 and 10-1-07;
9 however, the receipted funds were not deposited into the escrow depository
10 bank account until 10-2-07. Disbursements of the receipted funds were made
11 prior to the date the funds were deposited into the bank account. The procedure
12 of disbursing fiduciary funds from an escrow depository account prior to
13 depositing the escrow disbursed funds in the trust checking account also
14 represents the use by the Petitioners of uncollected fiduciary funds, as sufficient
15 funds are not present in the escrow depository account to fund the
16 disbursements without using monies in the deposit account belonging to other
17 escrow transactions. At the time of the premature disbursement, the total funds
18 contained in the escrow depository account after the premature disbursements
19 then became insufficient to cover the total escrow deposit account liability;
- 20 m. Failed to charge exact third-party pass-through costs to escrow parties, and charged
21 parties unfilled escrow fees; specifically:
- 22 i. Petitioners failed to charge exact third party pass-through costs as evidenced by
23 overcharges at the branch located at 11811 N. Tatum Blvd., Phoenix, which
24 occurred on eight (8) occasions, totaling \$195.00; and
- 25 ii. Petitioners charged escrow parties unfilled escrow fees that have not been filed
26 with or approved by the Superintendent, which occurred at six (6) branch

1 locations, on thirty four (34) occasions, totaling \$1,922.40; specifically:

- 2 1. The Branch located at 3200 N. Central, Suite 1150, Phoenix (#719),
3 charged escrow parties unfiled escrow fees that have not been filed with or
4 approved by the Superintendent on ten (10) occasions, totaling \$700.00;
- 5 2. The Branch located at 3048 E. Baseline Road, Mesa, charged escrow
6 parties unfiled escrow fees that have not been filed with or approved by
7 the Superintendent on nine (9) occasions, totaling \$375.00;
- 8 3. The Branch located at 7200 W. Bell Road, Glendale, charged escrow
9 parties unfiled escrow fees that have not been filed with or approved by
10 the Superintendent on three (3) occasions, totaling \$322.40;
- 11 4. The Branch located at 4801 S. Lakeshore Drive, Tempe, charged escrow
12 parties unfiled escrow fees that have not been filed with or approved by
13 the Superintendent on five (5) occasions, totaling \$240.00;
- 14 5. The Branch located at 18205 N. 51st Avenue (#129), charged escrow
15 parties unfiled escrow fees that have not been filed with or approved by
16 the Superintendent on six (6) occasions, totaling \$210.00; and
- 17 6. The Branch located at Broadway, Tucson (#410), charged escrow parties
18 unfiled escrow fees that have not been filed with or approved by the
19 Superintendent on one (10) occasion, totaling \$750.00;

20 n. Deviated six hundred one (601) times from their filed and approved escrow rates in
21 an amount totaling \$21,089.22; specifically:

22 i. Branch #718 deviated from the filed and approved rates on eighteen (18)
23 occasions, totaling \$695.00; specifically:

- 24 1. Petitioners made twelve (12) overcharges totaling \$510.00; and
- 25 2. Petitioners made six (6) undercharges totaling \$185.00;

26 ii. Branch #719 deviated from the filed and approved rates on fifty two (52)

- 1 occasions; totaling \$1,768.90; specifically:
- 2 1. Petitioners made seventeen (17) overcharges totaling \$520.25; and
- 3 2. Petitioners made thirty five (35) undercharges totaling \$1,298.65;
- 4 iii. Branch #732 deviated from the filed and approved rates on forty six (46)
- 5 occasions; totaling \$3,128.00; specifically:
- 6 1. Petitioners made twenty five (25) overcharges totaling \$2,230.00 and
- 7 2. Petitioners made twenty one (21) undercharges totaling \$898.00;
- 8 iv. Branch #735 deviated from the filed and approved rates on twenty four (24)
- 9 occasions; totaling \$1,318.00; specifically:
- 10 1. Petitioners made eight (8) overcharges totaling \$589.00; and
- 11 2. Petitioners made sixteen (16) undercharges totaling \$729.00;
- 12 v. Branches #722, 780 and 781 deviated from the filed and approved rates on one
- 13 hundred (100) occasions; totaling \$3,099.50; specifically:
- 14 1. Petitioners made forty one (41) overcharges totaling \$1,279.25; and
- 15 2. Petitioners made fifty nine (59) undercharges totaling \$1,820.25;
- 16 vi. Branch #713 deviated from the filed and approved rates on fifty three (53)
- 17 occasions; totaling \$1,948.97; specifically:
- 18 1. Petitioners made thirty five (35) overcharges totaling \$1,787.97; and
- 19 2. Petitioners made eighteen (18) undercharges totaling \$161.00;
- 20 vii. Branch #129 deviated from the filed and approved rates on sixty three (63)
- 21 occasions; totaling \$1,580.00; specifically:
- 22 1. Petitioners made thirty nine (39) overcharges totaling \$1,032.00; and
- 23 2. Petitioners made twenty four (24) undercharges totaling \$548.00;
- 24 viii. Branch #310 deviated from the filed and approved rates on thirty eight (38)
- 25 occasions; totaling \$1,230.25; specifically:
- 26 1. Petitioners made nine (9) overcharges totaling \$207.50; and

2. Petitioners made twenty nine (29) undercharges totaling \$1,022.75;
- ix. Branch #410 deviated from the filed and approved rates on twenty nine (29) occasions; totaling \$962.00; specifically:
 1. Petitioners made fourteen (14) overcharges totaling \$439.25; and
 2. Petitioners made fifteen (15) undercharges totaling \$522.75;
- x. Branch #116 deviated from the filed and approved rates on twenty five (25) occasions; totaling \$703.00; specifically:
 1. Petitioners made seventeen (17) overcharges totaling \$517.00; and
 2. Petitioners made eight (8) undercharges totaling \$186.00; and
- xi. Branches #105 and 263 deviated from the filed and approved rates on one hundred fifty three (153) occasions; totaling \$4,655.70; specifically:
 1. Petitioners made eighty five (85) overcharges totaling \$2,056.45; and
 2. Petitioners made sixty eight (68) undercharges totaling \$2,599.25;
- o. Failed to document the escrow recorded date in forty nine (49) escrow files at eight (8) branch locations;
- p. Failed to maintain detailed escrow fee calculation worksheets in sufficient detail to document each escrow officer's calculation of escrow fees in nine (9) escrow files at five (5) branch locations;
- q. Failed to adopt and implement adequate policies and procedures for the filing of Report of Cash Payments Over \$10,000 Received in a Trade or Business, FinCen Form 8300; Currency Transaction Reports ("CTR"s), I.R.S. form 4789; and SARs; and
- r. Failed to provide adequate follow-up on outstanding, inactive, dormant escrow balances and outstanding reconciliation items, and failed to escheat inactive outstanding items for thirty (30) balances, totaling \$53,469.05; specifically:
 - i. Failed to provide adequate follow-up in JPMorgan Chase Bank checking

1 account #XXXXXX7455, regarding twelve (12) outstanding checks, totaling
2 \$9,870.95;

3 ii. Failed to provide adequate follow-up in JPMorgan Chase Bank checking
4 account #XXX7018, regarding eleven (11) outstanding checks, totaling
5 \$2,197.94; and

6 iii. Failed to provide adequate follow-up in Alliance Bank of Arizona checking
7 account #XXXXX0218, regarding seven (7) outstanding escrow balances,
8 totaling \$41,400.16.

9 4. Based upon the above findings, the Department issued and served upon Petitioners an
10 Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease
11 and Desist Order") on February 12, 2009.

12 5. On March 13, 2009, Petitioners filed a Request for Hearing to appeal the Notice of
13 Assessment.

14 LAW

15 1. Pursuant to A.R.S. § 6-801, *et seq.*, the Superintendent has the authority and duty to
16 regulate all persons engaged in the escrow agent business and with the enforcement of statutes, rules,
17 and regulations relating to escrow agents.

18 2. By the conduct set forth above in the Findings of Fact, TSA and Mr. Sullivan have
19 violated the escrow agent statutes and rules as follows:

20 a. A.R.S. § 6-841(A) and (B) by failing to maintain an adequate internal control
21 structure, as evidenced by failing to ensure that persons employed by or associated
22 with Petitioners' business did not make significant errors or perpetuate significant
23 irregularities or fraud without timely detection;

24 b. A.R.S. § 6-841(B) by failing to maintain an adequate internal control structure, as
25 evidenced by failing to implement and maintain adequate internal routine, security
26 and control procedures at eight (8) TSA branches;

- 1 c. A.R.S. § 6-841(B) by failing to maintain an adequate internal control structure, as
2 evidenced by failing to maintain an effective computer back-up system to ensure the
3 maintenance and preservation of computer data records of escrow transactions;
- 4 d. A.R.S. § 6-841(B) by failing to maintain an adequate internal control structure, as
5 evidenced by failing to respond to internal control structure criticisms and
6 recommendations repeatedly cited in the CPA's internal control communication
7 report and reports to management issued by the CPA firms to Petitioners annually in
8 conjunction with the fiscal years ending 2005, 2006 and 2007 audited financial
9 statements, and by failing to adopt and institute adequate and effective policies and
10 procedures to ensure the integrity, safety, maintenance and preservation of computer
11 generated data;
- 12 e. A.R.S. § 6-841(B) by failing to maintain an adequate internal control structure, as
13 evidenced by failing to protect and provide security for escrow property;
- 14 f. A.R.S. § 6-813(A) and A.A.C. R20-4-701 by failing to use TSA's name as licensed
15 on four (4) of Petitioners' fiduciary deposit accounts;
- 16 g. A.R.S. §§ 6-123(3), 6-124 and 6-837(B) by failing to produce escrow records for
17 examination in a timely manner;
- 18 h. A.R.S. §§ 6-834(A), 6-841(B), and 6-841.01(A) and A.A.C. R20-4-702 and 703 by
19 failing to maintain an adequate internal control structure as prescribed by A.R.S.
20 § 6-841 as evidenced by inadequate bank reconciliation procedures;
- 21 i. A.R.S. § 6-834(D) and A.A.C. R20-4-702 by failing, within three days after receipt of
22 escrow monies, to provide and document the disclosure to the depositing escrow
23 parties, a complete and adequate notice of their right to earn interest on all monies
24 deposited in escrows;
- 25 j. A.R.S. § 6-841.02(A) by failing to disclose to the buyers and sellers of residential
26 dwellings that the title insurer may offer a closing protection letter that provides

- 1 protection for loss of escrow monies due to fraud or dishonesty of the escrow agent;
- 2 k. A.R.S. § 6-841.03 by failing to provide a complete and accurate disclosure to each
- 3 buyer and seller of a residential dwelling as defined in A.R.S. § 6-841.02 that monies
- 4 deposited in an escrow account are not insured against loss from fraud or theft by this
- 5 state or the United States government;
- 6 l. A.R.S. §§ 6-843(A) and (B) by disbursing funds that were not available for
- 7 withdrawal from the escrow account;
- 8 m. A.R.S. § 6-846.01(A) by failing to charge exact third-party pass-through costs to
- 9 escrow parties, and charged parties unfilled escrow fees;
- 10 n. A.R.S. § 6-846.04(A) by deviating six hundred one (601) times from their filed and
- 11 approved escrow rates in an amount totaling \$21,089.32;
- 12 o. A.R.S. § 6-831 and A.A.C. R20-4-702 by failing to document the escrow recorded
- 13 date in forty nine (49) escrow files at eight (8) branch locations;
- 14 p. A.R.S. § 6-831 and A.A.C. R20-4-702 by failing to maintain detailed escrow fee
- 15 calculation worksheets in sufficient detail to document each escrow officer's
- 16 calculation of escrow fees in nine (9) escrow files at five (5) branch locations;
- 17 q. A.R.S. §§ 6-1241(C) and (G) by failing to adopt and implement adequate policies and
- 18 procedures for the filing of Report of Cash Payments Over \$10,000 Received in a
- 19 Trade or Business, FinCen Form 8300; Currency Transaction Reports (CTRs), I.R.S.
- 20 form 4789; and Suspicious Activity Reports (SARs); and
- 21 r. A.R.S. §§ 44-301, *et seq.* by failing to provide adequate follow-up on outstanding,
- 22 inactive, dormant escrow balances and outstanding reconciliation items, and failing
- 23 to escheat inactive outstanding items for thirty (30) balances, totaling \$53,469.05.

24 3. Petitioners failed to maintain an internal control structure as prescribed by A.R.S.

25 § 6-841, which is grounds for the suspension or revocation of Petitioners' escrow agent license,

26 pursuant to A.R.S. § 6-817(A)(12).

1 protection for loss of escrow monies due to fraud or dishonesty of the escrow agent;

2 k. A.R.S. § 6-841.03 by failing to provide a complete and accurate disclosure to each
3 buyer and seller of a residential dwelling as defined in A.R.S. § 6-841.02 that monies
4 deposited in an escrow account are not insured against loss from fraud or theft by this
5 state or the United States government;

6 l. A.R.S. §§ 6-843(A) and (B) by disbursing funds that were not available for
7 withdrawal from the escrow account;

8 m. A.R.S. § 6-846.01(A) by failing to charge exact third-party pass-through costs to
9 escrow parties, and charged parties unfilled escrow fees;

10 n. A.R.S. § 6-846.04(A) by deviating six hundred one (601) times from their filed and
11 approved escrow rates in an amount totaling \$21,089.32;

12 o. A.R.S. § 6-831 and A.A.C. R20-4-702 by failing to document the escrow recorded
13 date in forty nine (49) escrow files at eight (8) branch locations;

14 p. A.R.S. § 6-831 and A.A.C. R20-4-702 by failing to maintain detailed escrow fee
15 calculation worksheets in sufficient detail to document each escrow officer's
16 calculation of escrow fees in nine (9) escrow files at five (5) branch locations;

17 q. A.R.S. §§ 6-1241(C) and (G) by failing to adopt and implement adequate policies and
18 procedures for the filing of Report of Cash Payments Over \$10,000 Received in a
19 Trade or Business, FinCen Form 8300; Currency Transaction Reports (CTRs), I.R.S.
20 form 4789; and Suspicious Activity Reports (SARs); and

21 r. A.R.S. §§ 44-301, *et seq.* by failing to provide adequate follow-up on outstanding,
22 inactive, dormant escrow balances and outstanding reconciliation items, and failing
23 to escheat inactive outstanding items for thirty (30) balances, totaling \$53,469.05.

24 3. Petitioners failed to maintain an internal control structure as prescribed by A.R.S.
25 § 6-841, which is grounds for the suspension or revocation of Petitioners' escrow agent license,
26 pursuant to A.R.S. § 6-817(A)(12).

1 4. Petitioners failed to conduct their escrow agent business in accordance with the law or
2 have violated A.R.S. Chapter 7, or the rules relating to Chapter 7, which is grounds for the
3 suspension or revocation of Petitioners' escrow agent license, pursuant to A.R.S. § 6-817(A)(2).

4 5. The violations, set forth above, constitute grounds for: (1) the issuance of an order
5 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
6 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
7 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
8 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
9 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-817; and (4) an order or any
10 other remedy necessary or proper for the enforcement of statutes and rules regulating escrow agents
11 pursuant to A.R.S. §§ 6-123 and 6-131.

12 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
13 above-described violations, the Superintendent may issue a cease and desist order pursuant to A.R.S.
14 § 6-137; affirm the February 12, 2009 Cease and Desist Order or impose a civil money penalty
15 pursuant to A.R.S. § 6-132; suspend or revoke Petitioners' license pursuant to A.R.S. § 6-817; and
16 order any other remedy necessary or proper for the enforcement of statutes and rules regulating
17 escrow agents pursuant to A.R.S. §§ 6-123 and 6-131.

18 DATED this 6th day of April, 2009.

19
20 

21 Felecia A. Rotellini
22 Superintendent of Financial Institutions

23 ...

24 ...

25 ...

26 ...

1 ORIGINAL filed this 6th day of April,
2009, in the office of:

2 Felecia A. Rotellini
3 Superintendent of Financial Institutions
Arizona Department of Financial Institutions
4 Attn: Susan L. Longo
2910 N. 44th Street, Suite 310
5 Phoenix, AZ 85018

6 COPY of the foregoing mailed/delivered same date to:

7 Lewis D. Kowal, Administrative Law Judge
Office of the Administrative Hearings
8 1400 West Washington, Suite 101
Phoenix, AZ 85007

9 Craig A. Raby, Assistant Attorney General
10 Attorney General's Office
1275 West Washington
11 Phoenix, AZ 85007

12 Robert D. Charlton, Assistant Superintendent
Richard Carpenter, Senior Examiner
13 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
14 Phoenix, AZ 85018

15 AND COPY MAILED SAME DATE by Certified Mail,
Return Receipt Requested, and by service of process to:

16 Thomas Sullivan, Jr., President
17 Title Security Agency of Arizona
6390 E. Tanque Verde
18 Tucson, AZ 85732
Petitioners

19 Robert L. Gugino, Statutory Agent for
20 Title Security Agency of Arizona
4564 E. Camp Lowell Drive
21 Tucson, AZ 85712-1282

22 Michael J. Rusing, Esq.
Rebecca K. O'Brien, Esq.
23 RUSING & LOPEZ, P.L.L.C.
6262 N. Swan Road, Suite 200
24 Tucson, AZ 85718
Attorneys for Petitioners

25
26 
419268; PHX-AGN-2008-0674